

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Douglas James Critcher
Title : N-(1-ARYLPYRAZOLE-4L) SULFONAMIDES AND THEIR USE AS PARASITICIDES

Serial No. : 10/593,133 Filed: November 30, 2006
Patent No. : US 7,687,533 Issued: March 30, 2010
Examiner : Rodriguez-Garcia, Valerie
Art Unit : 1626 Confirmation No.: 7562
Customer No. : 25533 Attorney Docket No. PC25930A

Mail Stop Patent Ext.
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION OF PATENT TERM
ADJUSTMENT UNDER 37 CFR §1.705(d)**

Dear Sir:

U.S. Patent Application Serial No. 10/593,133 has been allowed and was granted a patent term adjustment of 607 days. For reasons set forth below, Applicants request a patent term adjustment of only 547 days. The issue in this case is the method of calculating the patent term adjustment to be granted to a patent based upon the Patent Office failure to grant the patent within 3 years from the filing date. Secondly, the final PTA calculation prepared by the PTO failed to include the 13 days previously granted to Applicant in the Notice of Allowance as a delay period between the Applicants' last response and the mailing of the Notice of Allowance. Applicants hereby request that this 13-day period be added back to the final PTA. Under the recent decision of the U.S. District Court for the District of Columbia (Wyeth et al. v. Jon W. Dudas) the patent term adjustment is the sum of prosecution delays attributable to USPTO and the delay in issuing the patent beyond the three years from the filing date, less any period of actual calendar overlap between the prosecution delays and the issuance delay. In addition, Applicants' delay and certain other periods set forth in 35 U.S.C. § 1.54(b) are also excluded. In the present case, there were no Applicants' delays or other exclusions. There are two periods of USPTO delay in the present case. The first period begins 14 months after the filing date, herein, the 35 USC §371 commencement date, November 30, 2006. This delay period ended on March 19, 2009, when the USPTO mailed a restriction election of species requirement. This first period

is 414 days of USPTO delay. The PTO inadvertently excluded a 13-day PTO delay originally granted Applicant in the Notice of Allowance, e.g., the delay attributed to the filing date of the Notice of Allowance, as described above. Therefore, Applicant is entitled to the 427 days for this pre-issuance period.

The second period of delay began three years after the filing date of this application, that is, November 30, 2006. This delay continued until the issuance of the patent on March 30, 2010. This period is 120 days, not 193, of USPTO delay. Since there is no overlap between the prosecution delays and the delay in issuance, Applicants are entitled to a patent term adjustment equal to the sum of the two USPTO delay periods, that is, a patent term adjustment of 427 days + 120 days for a total of 547 days, not the 607 days as calculated by the PTO and printed on the Notice of Grant mailed March 10, 2010. Therefore, Applicants request that the correct patent term adjustment be duly granted to Applicants.

Included herewith is a detailed calendar of the patent term adjustment for this patent. This patent is not subject to a terminal disclaimer.

Applicants believe that pursuant to 37 CFR 1.18(e), a \$200.00 processing fee is due in connection with this application for patent term adjustment. Please charge the required fee(s) to Deposit Account No. 16-1445. However, in light of the facts stated above, if a fee need not be assessed, then Applicants request that such fee not be charged to the account.

Respectfully submitted,

March 31, 2010
Date



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Attachment

Docket term® AIPA Term Calculation Report

APPLICATION INFORMATION			
Docket Number:	PC25930A	User Name:	Misiak, Paul
Application Number:	10/593,133	Firm/Company Name:	Pfizer, Inc
Filing Date:	03/07/2005	User Comments:	
Title/Inventor(s):	N-(1-ARYLPYRAZOL-4L) SULFONAMIDES AND THEIR USE AS PARASITICIDES; Douglas James Critcher, Kent, (GB)	Calculation Generated:	03/19/2010 09:40:40 AM ET

AIPA TERM CALCULATION SUMMARY	
Earliest Referenced Application under 35 USC § 120, 121, or 365(c):	0% / 0% / 250%
International Filing Date:	03/07/2005
Net Adjustment Credits:	547 Days
Net Adjustment Debits:	0 Days
Patent Term Adjustment:	547 Days
AIPA Patent Term End Date:	11/11/2025 (I)

DISMISSES payment of all maintenance fees, including amounts due by 35 USC 156 statutory extensions. Technical documents filed in this case, if any, shall result in no earlier term end date, without adjustment. No term would end on 05/13/2024.

RULE CALCULATION SUMMARY (2)					
Event	Rule Invoked	Related Event	Duration	Days/40	Credit Used/ Unused
	<u>3-Year PTO Issue of Patent</u>				
A 11/30/2006 National Stage Commenced under 35 USC 371(b) or (f)	PTO must issue a patent within 3 years (not including exclusions) after the date on which the application was filed under 35 USC 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application. Period of adjustment (credits) begins on the day after the date that is 3 years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the listed exclusions periods. 35 USC 154(b)(1)(B); 37 CFR 1.702(b), 1.703(b).				
	You have elected to analyze this rule in accordance with Wyeth v. Kappos, ___ F.3d ___ (Fed. Cir. 2010).				
	<u>14-Month PTO First Action</u>				
B 11/30/2006 Application Fulfilled Requirements of 35 USC 371	PTO must mail a notification under 35 USC 132 or a notice of allowance under 35 USC 151 not later than 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 in an international application. Period of adjustment (credits) begins on the day after the date that is 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 and ending on the date of mailing of either an action under 35 USC 152, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(1), 1.703(a)(1).				
	<u>3-Month Applicant Response to Notice or Action</u>				
C 03/19/2009 Restriction / Election-of-Species	Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).				
	Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c).				
	You have indicated that no 1.705(c) Showing of Due Care was made.				

D	03/24/2009 Response to Election-of-Species / Restriction Filed	PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(2),(3).	04/27/2009 Non-final Action	0
E	04/27/2009 Non-final Action	3-Month PTO Response to Applicant Reply Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request; beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).	07/06/2009 Reply after Non-final Action under 37 CFR 1.111	0
F	07/06/2009 Reply after Non-final Action under 37 CFR 1.111	Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(e). You have indicated that no 1.705(c) Showing of Due Care was made.	07/06/2009 Reply after Non-final Action under 37 CFR 1.111	0
G	1/19/2009 Notice of Allowance under 35 USC 151	4-Month PTO Response to Applicant Reply PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(2),(3).	1/19/2009 Notice of Allowance under 35 USC 151	0
		3-Month Applicant Response to Notice or Action Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request; beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).	02/19/2010 Issue Fee Payment under 35 USC 151	0
		Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c). You have indicated that no 1.705(c) Showing of Due Care was made.		

4-Month PTO Issue of Patent			
	Issue Date		
02/19/2010 Issue Fee Payment under 35 USC 151	03/30/2010 Issue Date	0	
Total Exclusion, Debit, and Credit Days: Overlap Days (6): Net Exclusion, Debit, and Credit Days: Patent Term Adjustment Days (7):			
	0	0	54*
	0	0	0
	0	0	547

(2) Calculations of Debit, Credit, and Exclusion Days are determined by the date assignments, assignments of inventions, and analysis options in the Apply Term Rules tab. The patent prosecution using this system is typically for licensing and updating the Apply Term Rules tab in cases where it is complete, subject to revision with time.

(3) Exclusion Days are periods which are not included in determining the end of the 3-Year period after the date on which the application was filed under 35 USC 151(d), or the patent stage commenced under 35 USC 371(e)(1) for an international application, used to determine credits under the 3-Year PTO Issue of Patent rule. See 35 USC 154(b)(1)(B), 37 CFR 1.702(h)(1)(iii), 1.703(b)(6).

(4) Debit Days are days which provide for reduction of patent term if certain specific events occur during prosecution. Debit Days are sometimes referred to as Appeal and Cancellation Days.

(5) Credit Days are days which provide for extension of patent term if certain specific events occur during prosecution. Credit Days are sometimes referred to as 35 USC 371(e)(1) Days.

(6) The exact end periods of legal or other credit periods. Debit periods overlap other debit periods, or exclusion periods overlap other exclusion periods, causing any Patent Term Adjustment Days equals less than the days minus Net Exclusion Days, but is not less than zero.